

1 HOUSE BILL NO. 476

2 INTRODUCED BY D. GALLIK

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT DIRECTING THE DEPARTMENT OF REVENUE TO PUBLISH ON
5 THE DEPARTMENT'S HOMEPAGE ON THE STATE WEBSITE A LIST OF THE 100 INDIVIDUAL INCOME
6 TAXPAYERS WHO OWE THE MOST DELINQUENT TAXES AND THE 100 CORPORATION LICENSE OR
7 INCOME TAXPAYERS WHO OWE THE MOST DELINQUENT TAXES; AMENDING SECTIONS 15-30-249,
8 15-30-303, AND 15-31-511, MCA; AND PROVIDING AN EFFECTIVE DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
12 NEW SECTION. **Section 1. Delinquency publication.** Beginning January 1, 2004, the department
13 shall publish on the department's homepage on the state website a list of the 100 individual income taxpayers
14 who owe the most delinquent taxes and the 100 corporation license or income taxpayers who owe the most
15 delinquent taxes.

16
17 **Section 2.** Section 15-30-249, MCA, is amended to read:

18 **"15-30-249. Confidentiality.** Reports and returns required to be filed under this part are confidential,
19 subject to the limitations contained in [section 1] and 39-51-603(3) and (4)."

20
21 **Section 3.** Section 15-30-303, MCA, is amended to read:

22 **"15-30-303. Confidentiality of tax records.** (1) Except as provided in [section 1], subsections (7) and
23 (8) of this section, or in accordance with a proper judicial order or as otherwise provided by law, it is unlawful
24 to divulge or make known in any manner:

25 (a) the amount of income or any particulars set forth or disclosed in any individual report or individual
26 return required under this chapter or any other information secured in the administration of this chapter; or

27 (b) any federal return or federal return information disclosed on any return or report required by rule of
28 the department or under this chapter.

29 (2) (a) The officers charged with the custody of the reports and returns may not be required to produce
30 them or evidence of anything contained in them in an action or proceeding in a court, except in an action or

1 proceeding:

2 (i) to which the department is a party under the provisions of this chapter or any other taxing act; or

3 (ii) on behalf of a party to any action or proceedings under the provisions of this chapter or other taxes

4 when the reports or facts shown by the reports are directly involved in the action or proceedings.

5 (b) The court may require the production of and may admit in evidence only as much of the reports or
6 of the facts shown by the reports as are pertinent to the action or proceedings.

7 (3) This section does not prohibit:

8 (a) the delivery to a taxpayer or the taxpayer's authorized representative of a certified copy of any return
9 or report filed in connection with the taxpayer's tax;

10 (b) the publication of statistics classified to prevent the identification of particular reports or returns and
11 the items of particular reports or returns; or

12 (c) the inspection by the attorney general or other legal representative of the state of the report or return
13 of any taxpayer who brings an action to set aside or review the tax based on the report or return or against whom
14 an action or proceeding has been instituted in accordance with the provisions of 15-30-311.

15 (4) Reports and returns must be preserved for at least 3 years and may be preserved until the
16 department orders them to be destroyed.

17 (5) Any offense against subsections (1) through (4) is punishable by a fine not exceeding \$1,000 or by
18 imprisonment in the county jail for a term not exceeding 1 year, or both. If the offender is an officer or employee
19 of the state, the offender must be dismissed from office and may not hold any public office in this state for a
20 period of 1 year after dismissal.

21 (6) This section may not be construed to prohibit the department from providing taxpayer return
22 information and information from employers' payroll withholding reports to:

23 (a) the department of labor and industry to be used for the purpose of investigation and prevention of
24 noncompliance, tax evasion, fraud, and abuse under the unemployment insurance laws; or

25 (b) the state fund to be used for the purpose of investigation and prevention of noncompliance, fraud,
26 and abuse under the workers' compensation program.

27 (7) The department may permit the commissioner of internal revenue of the United States or the proper
28 officer of any state imposing a tax upon the incomes of individuals or the authorized representative of either
29 officer to inspect the return of income of any individual or may furnish to the officer or an authorized
30 representative an abstract of the return of income of any individual or supply the officer with information

1 concerning an item of income contained in a return or disclosed by the report of an investigation of the income
2 or return of income of an individual, but the permission may be granted or information furnished only if the
3 statutes of the United States or of the other state grant substantially similar privileges to the proper officer of this
4 state charged with the administration of this chapter.

5 (8) The department shall furnish:

6 (a) to the department of justice all information necessary to identify those persons qualifying for the
7 additional exemption for blindness pursuant to 15-30-112(4), for the purpose of enabling the department of
8 justice to administer the provisions of 61-5-105;

9 (b) to the department of public health and human services information acquired under 15-30-301,
10 pertaining to an applicant for public assistance, reasonably necessary for the prevention and detection of public
11 assistance fraud and abuse, provided notice to the applicant has been given;

12 (c) to the department of labor and industry for the purpose of prevention and detection of fraud and
13 abuse in and eligibility for benefits under the unemployment compensation and workers' compensation programs
14 information on whether a taxpayer who is the subject of an ongoing investigation by the department of labor and
15 industry is an employee, an independent contractor, or self-employed;

16 (d) to the department of fish, wildlife, and parks specific information that is available from income tax
17 returns and required under 87-2-102 to establish the residency requirements of an applicant for hunting and
18 fishing licenses;

19 (e) to the board of regents information required under 20-26-1111;

20 (f) to the legislative fiscal analyst and the office of budget and program planning individual income tax
21 information as provided in 5-12-303. The information provided to the office of budget and program planning must
22 be the same as the information provided to the legislative fiscal analyst.

23 (g) to the department of transportation farm income information based on the most recent income tax
24 return filed by an applicant applying for a refund under 15-70-223 or 15-70-362, provided that notice to the
25 applicant has been given as provided in 15-70-223 and 15-70-362. The information obtained by the department
26 of transportation is subject to the same restrictions on disclosure as are individual income tax returns."
27

28 **Section 4.** Section 15-31-511, MCA, is amended to read:

29 **"15-31-511. Confidentiality of tax records.** (1) Except as provided in [section 1], this section in
30 accordance with a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or make known

1 in any manner:

2 (a) the amount of income or any particulars set forth or disclosed in any return or report required under
3 this chapter or any other information relating to taxation secured in the administration of this chapter; or

4 (b) any federal return or information in or disclosed on a federal return or report required by law or rule
5 of the department of revenue under this chapter.

6 (2) (a) An officer or employee charged with custody of returns and reports required by this chapter may
7 not be ordered to produce any of them or evidence of anything contained in them in any administrative
8 proceeding or action or proceeding in any court, except:

9 (i) in an action or proceeding in which the department is a party under the provisions of this chapter;

10 or

11 (ii) in any other tax proceeding or on behalf of a party to an action or proceeding under the provisions
12 of this chapter when the returns or reports or facts shown in them are directly pertinent to the action or
13 proceeding.

14 (b) If the production of a return, report, or information contained in them is ordered, the court shall limit
15 production of and the admission of returns, reports, or facts shown in them to the matters directly pertinent to
16 the action or proceeding.

17 (3) This section does not prohibit:

18 (a) the delivery of a certified copy of any return or report filed in connection with a return to the taxpayer
19 who filed the return or report or to the taxpayer's authorized representative;

20 (b) the publication of statistics prepared in a manner that prevents the identification of particular returns,
21 reports, or items from returns or reports;

22 (c) the inspection of returns and reports by the attorney general or other legal representative of the state
23 in the course of an administrative proceeding or litigation under this chapter;

24 (d) access to information under subsection (4); or

25 (e) the director of revenue from permitting a representative of the commissioner of internal revenue of
26 the United States or a representative of a proper officer of any state imposing a tax on the income of a taxpayer
27 to inspect the returns or reports of a corporation. The department may also furnish those persons abstracts of
28 income, returns, and reports; information concerning any item in a return or report; and any item disclosed by
29 an investigation of the income or return of a corporation. The director of revenue may not furnish that information
30 to a person representing the United States or another state unless the United States or the other state grants

1 substantially similar privileges to an officer of this state charged with the administration of this chapter.

2 (4) The department shall on request:

3 (a) allow the inspection of returns and reports by the legislative auditor, but the information furnished
4 to the legislative auditor is subject to the same restrictions on disclosure outside that office as provided in
5 subsection (1); and

6 (b) deliver corporation income tax data to the legislative fiscal analyst and the office of budget and
7 program planning, but the information furnished to the legislative fiscal analyst and the office of budget and
8 program planning is subject to the same restrictions on disclosure outside those offices as provided in
9 subsection (1).

10 (5) A person convicted of violating this section shall be fined not to exceed \$1,000 or be imprisoned in
11 the county jail for a term not to exceed 1 year, or both. If a public servant, as defined in 45-2-101, is convicted
12 of violating this section, the person forfeits office and may not hold any public office or public employment in the
13 state for a period of 1 year after conviction."

14
15 **NEW SECTION. Section 5. Codification instruction.** [Section 1] is intended to be codified as an
16 integral part of Title 15, chapter 1, part 1, and the provisions of Title 15, chapter 1, part 1, apply to [section 1].

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18 **NEW SECTION. Section 6. Effective date.** [This act] is effective July 1, 2003.

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